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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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02/23/2004

Dmitry I. Belov

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28977 7590 07/18/2008
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EXAMINER

MOSSER, KATHLEEN MICHELE

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

In response to the reply filed 04/30/2008, claims 1-24 are pending.

Declaration filed under 37 CFR 1.132

1. The declaration under 37 CFR 1.132 filed 04/20/2008 is insufficient to overcome the rejection of claims 1-24 based upon "A Stochastic Search for Test Assembly, Item Pool Analysis, and Design", as set forth in the last Office action because: the affidavit does not set forth sufficient evidence that the article is solely the applicant's own work. Though Mr. Belov states that the contributions made by Ronald D. Armstrong to the article are not claimed, an identification of those contributions has not been made. Given this, the affidavit is insufficient to establish that that Belov/Armstrong article is not prior art.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-24 are rejected under 35 U.S.C. 102(a) as being anticipated by "A Stochastic Search for Test Assembly, Item Pool Analysis, and Design", Belov and Armstrong, January 2004 (cited by applicant, herein after the Belov/Armstrong Article). Belov/Armstrong teaches a plurality of methods, intended to be implemented on a computer (thus a computer readable medium including for creating sub-pools of questions from a larger item pool. The larger item pool is shown on Page 5 line 20-21. The method of claims 1, 2, 13 and 14 is shown in Page 5, as steps 1 and 2 of the Monte Carlo analysis. With respect to claims 3-5 and 15-18, these methods correlate to the procedures taught as "Method 1" of the Belov/Armstrong Article starting on page 6. With respect to claims 7 and 19, this method is described as "Method 3" of the Belov/Armstrong article starting on page 9. With respect to claims 8, 9, 20 and 21, this

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method correlated to "Method 2" of the Belov/Armstrong article, starting on page 8. With respect to claims 10-12 and 22-24, the methods for assembling the sub-pools are described in Section 3 of the Belov/Armstrong article.

Response to Arguments

3. Applicant's arguments filed 04/20/2008 have been fully considered but they are not persuasive. Applicant's arguments are based solely on the affidavit, as the affidavit fails to properly show that the Belov/Armstrong article is solely the work of Belov the rejection of the claims is maintained.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3714

July 17, 2008